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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,128	12/17/2001	Durward I. Faries, JR.	1322.0040C	4172
7590 10/18/2007 . EPSTEIN, EDELL, SHAPIRO, FINNAN & LYTLE, LLC			EXAMINER	
Suite 400			WITCZAK, CATHERINE	
1901 Research Boulevard Rockville, MD 20850-3164			ART UNIT	PAPER NUMBER
			3767	
			<u>,</u>	
			MAIL DATE	DELIVERY MODE
			10/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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	Application No.	Applicant(s)
·	10/016,128	FARIES, ET AL.
Office Action Summary	Examiner	Art Unit
	Catherine N. Witczak	3767
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the c	orrespondence address
A SHORTENED STATUTORY PERIOD FOR REPL WHICHEVER IS LONGER, FROM THE MAILING D - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tir will apply and will expire SIX (6) MONTHS from a, cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).
Status	•	
 1) Responsive to communication(s) filed on 13 J 2a) This action is FINAL. 2b) This 3) Since this application is in condition for allowarclosed in accordance with the practice under E 	s action is non-final. nce except for formal matters, pro	
Disposition of Claims		
4) ☐ Claim(s) 17-23 and 51-62 is/are pending in the 4a) Of the above claim(s) is/are withdrays s/are withdrays s/are allowed. 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 17-23 and 51-62 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or	wn from consideration.	
Application Papers		
9) The specification is objected to by the Examine 10) The drawing(s) filed on is/are: a) acc Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Ex	epted or b) objected to by the drawing(s) be held in abeyance. Settion is required if the drawing(s) is ob	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).
Priority under 35 U.S.C. § 119		
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority document 2. Certified copies of the priority document 3. Copies of the certified copies of the priority application from the International Bureau * See the attached detailed Office action for a list	s have been received. s have been received in Applicati rity documents have been receive u (PCT Rule 17.2(a)).	on No ed in this National Stage
		•
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Do 5) Notice of Informal P 6) Other:	nte

Part of Paper No./Mail Date 20071012

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claims 17, 51, and 57 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims include the limitation "enabling said intravenous fluid warming device to heat said fluid to said desired temperature within said range of 60°F - 160°F.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 2. Claim 17-23 and 51-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Augustine et al (US 2001/0009610) as modified by Mitsunaga et al (US 6,788,885) in further view of Ikegame et al (US 4,747,450).

Augustine et al. disclose in Figure 1 a fluid cassette comprising a fluid line tubing including an inlet (146) and an outlet (148) including connectors, a temperature sensor (paragraph 0030), and a conduction contact disposed about a portion of said fluid flow means to indicate the presence of a cassette



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within the warming device (paragraph 0027). Augustine et al disclose the claimed invention except for the quantity of tubing section providing a residence time enabling warming of the fluid to a desired temperature with the range of 60 –160 °F. Mitsunaga et al teach in columns 1, lines 23-25 and column 6, lines 39-43) that it is known to vary the length of tubing to achieve warming to a desired temperature range. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Augustine et al with varied tubing length to provide for warming of liquid in the tubing to a desired temperature, since such a modification would allow the device to provide sufficiently heated blood when treating patients.

Augustine et al in view of Mitsunaga et al disclose the claimed invention except for the fluid line tubing including a spiral section wherein the fluid flow direction within each tubing section is opposite the fluid flow direction with each adjacent tubing section. Ikegame et al teach in column 4, lines 19-24 that it is known to use a spiral design with reserved fluid flow in adjacent tubing section. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Augustine et al in view of Mitsunaga et al, since such a modification would allow for even temperature distribution without the creation of thermal stress.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine N. Witczak whose telephone number is (571) 272-7179. The examiner can normally be reached on Monday through Friday, 8-5 EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

cw

WWW 10/13/07

KEVIN C. SIRMONS SUPERVISORY PATENT EXAMINER

Meuri C. Jarmon